

REMARKS

Examiner has rejected Claims 1, 3-6 and 8 under 35 U.S.C. § 102(b) as being anticipated by *Knuth et al* (5,406,618). Specifically referring to Claim 5, Examiner states that *Knuth et al* ('618) discloses the communication system of Claim 1, "wherein said voice control system receives, recognizes and interprets a plurality of voice commands and directs said microprocessor in accordance with a control objective of each said voice command."

In response thereto and to further clarify Applicant's invention, Applicant has amended Claim 1 to more succinctly claim and distinguish Applicant's device, incorporating the limitations of Claim 5 therein and canceling Claim 5, and respectfully traverses Examiner's rejections. Applicant respectfully points out that the voice control system of Applicant's device, that enables a user to speak virtually any command in any order, is unlike that of *Knuth et al* ('618). Unlike Applicant's device, *Knuth et al* ('618) requires the user to go through a predetermined cycle or circuit, wherein the only commands capable of being verbally heard by the unit are "yes" or "no," irrespective of what actual words are spoken. The user must answer the same questions posed by the unit during each interaction. Referring to Column 4, lines 33 to 48, the machine first asks "Should I play your messages?;" then if the answer is "yes", the messages are played and the machine then asks

"Should I play your messages again?;" upon a response of "no," the machine then asks "Should I erase your messages?," to which yet another response is required. The user has no ability to directly control the machine because the machine cannot receive a *plurality* of voice commands, but instead is limited to receiving *only two* fixed responses (yes or no) to a predetermined string of inquiries.

Applicant's device, however, enables the user to directly control the machine. That is, instead of waiting for the machine to pose a string of inquiries and being limited to either affirmative or negative responses, user's of Applicant's device can speak in routine conversational language and command essentially any action in any order. That is, Applicant's device can "receive, recognize and interpret a *plurality* of voice commands." A user could approach the machine and say "Erase my messages," "Save my messages," "Play my messages in three days," or any other desired command. This distinction is noteworthy because the novel speech/conversational intelligence of Applicant's device enables more efficient, personalized and dynamic utilization by each user during each interaction.

Specifically, with respect to Claim 1, Applicant has clarified, by amendment, that the voice control system is capable of recognizing and interpreting a *plurality* of voice commands and of directing the microprocessor in accordance with the control

objective of each said voice command. The *Knuth et al* ('618) device does not recognize nor interpret a plurality of voice commands, but is limited to reception of only two responses. Further, the *Knuth et al* ('618) device cannot act in accordance with the control objective of the commands, because there is no control objective in "yes" or "no." Instead, *Knuth et al* ('618) acts in accordance with the control objective of the inquiries posed by the machine, a much more limiting process given the predetermined order/content of the inquiries. Applicant's device truly acts in accordance with the control objective of the commands of the user, because the action of the device is not predetermined or scripted, but is responsive. Thus, *Knuth et al* ('618) does not set forth "each and every element" of Applicant's device, as is required in order for a reference to anticipate a claim. *Verdeaal Bros. v. Union Oil Col. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); see also, *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the claim.").

Given Applicant's present amendment to Independent Claim 1, and Applicant's comments and remarks hereinabove, Applicant respectfully asserts that all the claim limitations of Claim 1 are not found in the prior art. Therefore, the claim limitations of depending Claims 3, and 6-13 each depending from amended Claim 1,

are also not found in the prior art. Applicant respectfully asserts that Applicant's amendment to Claim 1 and the remarks presented hereinabove have rendered Examiner's rejection of Claims 7, and 9-11 under 35 U.S.C. § 103(a) moot.

Examiner has rejected Claim 21 under 35 U.S.C. § 102(e) as being anticipated by *Hartstein* (6,483,695). In response thereto and to further clarify Applicant's invention, Applicant has amended Claim 21 to more succinctly claim and distinguish Applicant's device and respectfully traverses Examiner's rejections.

The *Hartstein* (6,483,695) device is essentially a laptop computer built into a refrigerator door. Applicant respectfully points out that this is not analogous to Applicant's communication device, wherein the dedicated nature of Applicant's portable unit assists the user by enabling placement and use in any location. In fact, many individuals would not desire a message playback system to be located in such a public area as the kitchen, but instead opt for a bedroom or office, thereby enabling messages to be received in privacy. Placing a refrigerator in such locations is as unlikely as is looking to refrigerator options to solve a problem with presently available methods of message communication. Page 5, lines 14-17 of Applicant's specification states, "Another feature and advantage of the present invention is to provide a new and improved motion activated, voice controlled communication device

wherein operation of voice message storage units are **freed from physical limitations.**"

Applicant has amended Claim 21 to clarify the dedicated nature of the portable unit required in order to practice Applicant's method, and to further clarify that the user has the option of placing the unit in any desired location. Given Applicant's present amendment to Claim 21 and Applicant's comments and remarks hereinabove, Applicant respectfully asserts that all the claim limitations of Claim 21 are not found in the prior art.

Examiner has rejected Claims 14-15 under 35 U.S.C. § 103(a) as being unpatentable over *Knuth et al* (5,406,618) and further in view of *Duncan* (5,949,852) and *Irribarren* (5,349,636). In response, Applicant respectfully traverses Examiner's rejection.

With respect to Claim 14, Examiner states that it would have been obvious "to include voice mail systems interface enabling said microprocessor to utilize an external telephone line to access and operate the voice mail system disclosed by *Irribarren* into voice system of *Knuth et al.* in view of *Duncan*." Applicant respectfully points out that, even if one did combine the device of *Knuth et al.* with the device of *Duncan* and the system of *Irribarren*, one would not arrive at Applicant's invention. As described above, the *Knuth et al.* device is not truly command response operative, nor capable of conversant intelligence, and as such, is disadvantageously

limited to the reception of two responsive words, yes and no. Moreover, *Irribarren* does not teach or describe any type of means or methodology wherein a user can verbally command a device to call/connect to a remote voice-mail system; *Irribarren* merely describes the voice-mail system itself that is capable of being accessed via telephone. That access, previous to Applicant's invention, was limited to an individual picking up the telephone and calling in to the system; once into the system, voice commands could then proceed. Applicant's invention enables the entire process to be directed via vocal commands. The voice-mail system of *Irribarren* does not "impel one skilled in the art to do what the patent applicant has done;" that is, a voice-mail system accessible/manageable via telephone from a user does not motivate one "to make the claimed invention," specifically, a motion-detection, verbally commanded device capable of being told to access an outside line in order to call into an external voice-mail system, and thus does not establish obviousness per *Ex Parte Levingood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993).

With respect to Claim 15, Applicant respectfully points out that *Irribarren* does not describe or suggest the conversion of audible commands into corresponding tone frequencies of a telephone keypad, as is claimed by Applicant. On the contrary, *Irribarren* converts tone frequencies, as depressed by the user, into microprocessor commands. Applicant's device advantageously enables

a user to utter a verbal command, wherein Applicant's device will access an outside line to connect into an external voice-messaging system, wherein Applicant's device will then interpret/translate the user's vocal commands into tone frequencies in order to manage the external voice-messaging system. Thus, even if one combined *Knuth et al.*, *Duncan*, and *Irribarren* (5,349,636), one would not arrive at Applicant's invention.

Examiner has rejected Claims 16-17 under 35 U.S.C. § 103(a) as being unpatentable over *Knuth et al* (5,406,618) and further in view of *Ito et al* (2001/0036264) and *Irribarren* (5,349,636); Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *Knuth et al* (5,406,618) in view of *Ito et al* (2001/0036264) and *Irribarren* (5,349,636) and further in view of *Hartstein* (6,483,695); Claim 19 under 35 U.S.C. § 103(a) as being unpatentable over *Knuth et al* (5,406,618) in view of *Ito et al* (2001/0036264) and *Irribarren* (5,349,636) and further in view of *Hartstein* (6,483,695); and Claim 20 under 35 U.S.C. § 103(a) as being unpatentable over *Hartstein* (6,483,695) in view of *Ito et al* (2001/0036264) and further in view of *Irribarren* (5,349,636). In response, Applicant respectfully traverses Examiner's rejection.

The device of *Ito et al.* is clearly unlike Applicant's device and there is no motivation or suggestion in any of the cited patents to make a combination thereof. Further, even if one

combined the devices of *Knuth et al.*, *Ito et al.*, *Irribarren*, and *Hartstein*, one would not arrive at Applicant's invention. Specifically with reference to Claims 16-20, Applicant's device not only audibly announces to the user that e-mail messages are waiting, but enables voice commands to be utilized to retrieve and/or manage such messages. See Page 15, lines 3-12, "Once microprocessor 50 announces that messages are waiting, microprocessor 50 audibly announces to the user via speaker 60 a recorded set of voice commands that the user may use to initiate the next action. Voice commands are substituted for manipulation of a pointing device for control of the motion of a cursor on a computer display. Or, alternatively, voice control unit 30 recognizes the voice command and the computer interface unit 90 converts the voice command into control signals to directly create a desired action aided by the operating system of the user's computer." This would not be possible even if all of Examiner's cites were combined.

Further, a user of Applicant's device "can initiate a reminder message via e-mail to provide an audible reminder on a specified date regarding an appointment, family occasion or event. Such reminder messages can be programmed one-year or more in advance, thereby enabling preset audible reminders for each such recurring event, such as, for exemplary purposes only, birthdays and anniversaries. In addition, device 10 can be utilized for medical

reminders, such as, for exemplary purposes only, scheduled medications, blood pressure or blood sugar checks, treatments or appointments, wherein such medical reminders can be input directly by the user or by a medical professional via e-mail access.” Page 16, lines 2-10. No other device or system suggests this unique marriage of functionality, wherein a motion-detection based messaging center having voice recognition vocabulary skills is able to receive verbal direction to check a user’s email, to verbally apprise a user of the content of such email, and to enable a user to verbally create email, or voice messages, to be delivered in a user-determined format on a user-specified date and/or time.

Applicant believes that the foregoing arguments distinguish the claims over the prior art and establish that Applicant’s invention is unobvious, thereby placing the rejected Claims 16-20 in condition for allowance.

CONCLUSION

The above-made amendments are to form only and thus, no new matter was added. Applicant respectfully believes that, based upon the forgoing, the Claims and application are in condition for allowance. Should the Examiner have any further questions and/or comments, Examiner is invited to telephone Applicant's undersigned Attorney at the number below.

Respectfully submitted, this 3rd day of May, 2004.



Sandra M. Sovinski, Esq.
Reg. No. 45,781

MYERS & KAPLAN,
INTELLECTUAL PROPERTY LAW, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339
(770) 541-7444
(770) 541-7448 facsimile
ssovinski@mkiplaw.com -- Email
Attorney Docket Number: 2000-1400-RA